

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RUBIN PRENDI,

Plaintiff,

18-CV-\_\_\_\_ ( ) ( )

**NOTICE OF REMOVAL  
PURSUANT TO 28 U.S.C.  
§ 1441**

-against-

CITY OF NEW YORK, THE NEW YORK CITY POLICE  
DEPARTMENT, PORT AUTHORITY OF NEW YORK &  
NEW JERSEY, PORT AUTHORITY POLICE  
DEPARTMENT, POLICE OFFICER DANIEL AMAR  
(Tax #47676), POLICE OFFICER JEREMY KAHN  
(Tax #47710), SERGEANT SPOLLEN (Tax #43485),  
JOHN DOES and/or JANE ROES Nos. 1-10  
(whose names are unknown at this time), ALL OF THE  
PORT AUTHORITY POLICE DEPARTMENT and/or  
NEW YORK CITY POLICE DEPARTMENT,

Defendants.  
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TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK:

PLEASE TAKE NOTICE that as provided by Title 28, U.S. Code, Chapter 89,  
defendants, The Port Authority of New York and New Jersey ("Port Authority"), Police  
Officer Daniel Amar ("Amar"), Police Officer Jeremy Kahn ("Kahn"), and Sergeant Spollen  
("Spollen"), by and through their undersigned attorney, hereby file this Notice of Removal of  
the above-described action to the United States District Court for the Southern District of New  
York from the Supreme Court of the State of New York, County of Bronx, where the action  
is now pending under Index No: 28920/2017.

PLEASE TAKE FURTHER NOTICE, the Port Authority, Amar, Kahn, and Spollen

hereby state that they have not yet filed an Answer to the Complaint in this matter and reserve their right under Fed. R. Civ. P. 81(c)(2) to file an Answer to the Complaint in the United States District Court Southern District of New York, and further state:

1. The above-entitled action was commenced in the Supreme Court of the State of New York, County of Bronx on September 20, 2017 and is now pending in that court. The Port Authority was served with a copy of the Summons and Complaint on January 17, 2018; Amar was served with a copy of the Summons and Complaint on January, 19, 2018; Kahn was served with a copy of the Summons and Complaint on January 24, 2018; and Spollen was served with a copy of the Summons and Complaint on January 19, 2018.

2. In accordance with 28 U.S.C. §1446(a), a copy of all process, pleadings and orders received by the Port Authority, Amar, Kahn, and Spollen are attached as Exhibit A. The other named defendants in this action are The City of New York, New York City Police Department,<sup>1</sup> The Port Authority Police Department,<sup>2</sup> and fictitiously named police officer defendants "John Doe" and "Jane Roe".

3. Defendant City of New York received a copy of the Summons and Complaint on or about January 12, 2018. Without waiving any defenses, Defendant City of New York hereby consents to the removal of this case to Federal Court. See Joinder in Removal, attached as Exhibit B.

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<sup>1</sup> Under the New York City Charter, any "violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise provided by law." N.Y.C. Charter § 396. The New York Police Department is not a legal entity, and therefore should not be named as a party to a lawsuit. Davis v. City of New York, 2000 WL 1877045 (S.D.N.Y.).

<sup>2</sup> The Port Authority has a Police Department ("PAPD") within its Public Safety Department, which employs persons who are designated police officers under applicable laws of the States of New York and New Jersey. PAPD is not a legal entity separate from the Port Authority, thus it is an improperly named party.

4. This action was commenced against defendants in the Supreme Court of the State of New York, County of Bronx by the plaintiff, and is of a civil nature alleging violations of the plaintiff's constitutional and civil rights, apparently seeking redress under 42 U.S.C. § 1983 and 42 U.S.C. § 1988. Exhibit A. The plaintiff alleges that, among other acts, he was subjected to a false arrest, false imprisonment, malicious prosecution, negligence and assault. According to the Complaint, the alleged violations occurred at John F. Kennedy International Airport, in the County of Queens, State of New York.

5. The United States District Court for the Southern District of New York has jurisdiction by reason of 28 U.S.C. §1331 in that the action arises under the Laws of the United States, as it appears from the Complaint that the plaintiff bases claims for relief against the defendants on and under the United States Constitution and federal statutes. To the extent the Complaint alleges, state common law or other non-federal claims, this Court has supplemental jurisdiction over any such claims under 28 U.S.C. § 1367 because those claims arise out of the same operative facts as Plaintiff's federal claims and form part of the same case of controversy.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1441(a), because the United States District Court for the Southern District of New York, is the federal judicial district embracing the Supreme Court of the State of New York, County of Bronx where the State Court Action was originally filed.

7. This action was commenced by the filing of the Complaint on September 20, 2017. As stated above, process was lawfully served on the Port Authority on January 17, 2018; Amar on January 19, 2018; Kahn on January 24, 2018; and Spollen on

January 19, 2018. The time has not elapsed within which the Port Authority, Amar, Kahn, or Spollen is allowed to file this notice of removal of action to this Court. A copy of all process and pleadings served upon the Port Authority accompanies this notice.

8. In accordance 28 U.S.C. § 1446(d), the filing of a copy of this notice with the County Clerk and Clerk of the Supreme Court of the State of New York, County of Bronx shall give that court notice of the removal and the Supreme Court of the State of New York shall proceed no further with respect to the action, unless and until the case is remanded thereto.

**WHEREFORE**, the Port Authority respectfully requests that this action, previously pending in the Supreme Court of the State of New York, County of Bronx, proceed in this Court as an action properly removed to it and that this Court enter such other and further orders as may be necessary to accomplish the requested removal.

Dated: New York, New York  
February 5, 2018

Respectfully submitted,  
**THE PORT AUTHORITY LAW  
DEPARTMENT**

By: 

Jonathan I. Smith, Esq.

*Attorney for Defendant*

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TO:

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of the State of New York, Bronx County  
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